THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :21409 of 2007

DATED:09-10-2007

BETWEEN:

Yerraboina Muthaiah.

..... PETITIONER

AND

The Tahsildar,
Palwancha mandal,
Khammam District & 2 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 2nd respondent in not disposing the interim stay application filed against the order passed by the Mandal Revenue Officer in POT Case No.B/5051/2002, dated
29-07-2003, under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for brevity, 'the Act') , as illegal and arbitrary and consequently declare that the petitioner is entitled to continue in possession of the lands to an extent of Ac.3.00 situated in Sy.No.444, situated at Rajiv Nagar, Palwancha town and Mandal, Khammam District.

3. It is the case of the petitioner that an extent of
Ac.3.00 of land in Sy.No.444 of Palwancha village, Khammam District was assigned in favour of the petitioner in 1976 and he has developed and cultivated the said land and as there is an attempt to interfere with the peaceful possession and enjoyment of the said land, petitioner filed W.P.No.6446 of 2006 on the file of this Court in which a counter has been filed stating that the petitioner was assigned an extent of Ac.5.00 of the land in Sy.No.444 vide File No.A8/459/1974, dated 16-02-1974, and on verification it was found that the petitioner disposed of the land to various persons

after collecting the suitable sale amount. In fact, the purchasers also filed W.P.No.23922 of 2002 which was disposed of on 08-01-2003 giving liberty to the official respondents to follow due process of law as contemplated under the provisions of the Act, and accordingly a notice was issued to the petitioner and the purchasers. Since neither the petitioner nor the purchasers participated in the enquiry proceedings, the Mandal Revenue Officer vide his proceedings, dated 07-11-2003, allotted the resumed land in favour of 141 persons. In view of the aforesaid counter the learned single Judge of this Court dismissed the said W.P.No.6446 of 2006 by order, dated 11-07-2006, on the ground that the land was already resumed by the Mandal Revenue Officer vide orders in proceedings in Rc.No.B/4319/2002, dated 07-11-2003.

4. It is stated that the petitioner violated the provisions of sub-Sections 1 and 2 of Section 3 of the Act in resuming the said land and accordingly the said Writ Petition was dismissed. Aggrieved by the said order of the learned single Judge petitioner filed W.A.No.665 of 2007 and the Division Bench of this Court by order, dated 06-09-2007, while dismissing the appeal permitted the petitioner to withdraw the Writ Petition with an observation that the order of the learned single Judge shall not adversely affect adjudication of the issue which may be raised by the appellant while challenging the resumption order, dated 29-07-2003, passed by the Mandal Revenue Officer. It is stated that immediately after receipt of the order, dated 06-09-2007, in the Writ Appeal, petitioner filed an appeal along with stay application, dated 29-09-2007, before the 2nd respondent-Revenue Divisional Officer, Palwancha, but the 2nd respondent has not taken up the stay

application. Hence, the present Writ Petition.

5. When the petitioner failed to get such an order in the earlier round of litigation either before the learned single Judge or before the Division Bench I am not inclined to express any opinion with regard to the entitlement of the said land as the appeal and stay application are pending. Therefore, without expressing any opinion on the merits of the case 2nd respondent is directed to consider and dispose of the stay application if the appeal is admitted and pending, and if it is in order and filed within time, and also take steps to dispose of the main appeal also as expeditiously as possible.

6. Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

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V.ESWARAIAH,J

09th October, 2007.

Note:

Furnish C.C. of the order
within two days.

B/o

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